

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

GERALD FIELDS,

Petitioner,

v.

**CASE NO. 2:11-CV-431
JUDGE SARGUS
MAGISTRATE JUDGE KING**

**WARDEN, MARION CORRECTIONAL
INSTITUTION,**

Respondent.

ORDER

On February 12, 2012, the Magistrate Judge issued an *Order and Report and Recommendation* denying Petitioner's request for a stay and recommending that the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be dismissed as procedurally defaulted. *Order and Report and Recommendation*, Doc. No. 14. Petitioner has filed objections to that denial and recommendation. *Objection*, Doc. No. 16.

As he did before the Magistrate Judge, Petitioner again argues that his guilty plea was not knowing, intelligent or voluntary because the trial court failed to properly advise him regarding the terms of post release control. Petitioner also complains that the state courts denied him a hearing on his motion to withdraw guilty plea. He again raises all the same arguments that he previously presented.

Because the denial of Petitioner's request for a stay is neither clearly erroneous nor contrary to law, 28 U.S.C. § 636(b), Petitioner's objection to the Magistrate Judge's decision in that regard is **DENIED**.

Pursuant to 28 U.S.C. § 636(b), this Court has conducted a *de novo* review of the

recommendation that the action be dismissed as procedurally defaulted. For the reasons detailed in the Magistrate Judge's *Order and Report and Recommendation*, Petitioner's objections, Doc. No. 16, are **OVERRULED**. The *Order and Report and Recommendation* is **ADOPTED** and **AFFIRMED**. The claims asserted in this action are procedurally defaulted and this action is therefore **DISMISSED**.

The Clerk is **DIRECTED** to enter **FINAL JUDGMENT**.

2-27-2012
DATE



EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE